

Senate Study Bill 3053 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

A BILL FOR

1 An Act relating to transfer of assets provisions under the
2 medical assistance program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 249F.1, subsection 2, paragraph a, Code
2 2009, is amended to read as follows:

3 a. *“Transfer of assets”* means any transfer or assignment
4 of a legal or equitable interest in property, as defined in
5 section 702.14, from a transferor to a transferee for less than
6 fair consideration, made while the transferor is receiving
7 medical assistance or within five years prior to application
8 for medical assistance by the transferor. Any such transfer
9 or assignment is presumed to be made with the intent, on the
10 part of the transferee; transferor; or another person acting
11 on behalf of a transferor who is an actual or implied agent,
12 guardian, attorney-in-fact, or person acting as a fiduciary,
13 of enabling the transferor to obtain or maintain eligibility
14 for medical assistance or of impacting the recovery or payment
15 of a medical assistance debt. This presumption is rebuttable
16 only by clear and convincing evidence that the transferor’s
17 eligibility or potential eligibility for medical assistance or
18 the impact on the recovery or payment of a medical assistance
19 debt was no part of the ~~transferee’s~~ reason of the transferee;
20 transferor; or other person acting on behalf of a transferor
21 who is an actual or implied agent, guardian, attorney-in-fact,
22 or person acting as a fiduciary for making or accepting the
23 transfer or assignment. A transfer of assets includes a
24 transfer of an interest in the transferor’s home, domicile, or
25 land appertaining to such home or domicile while the transferor
26 is receiving medical assistance, unless otherwise exempt under
27 paragraph “b”.

28 Sec. 2. Section 249F.1, subsection 2, paragraph b,
29 subparagraph (6), Code 2009, is amended to read as follows:

30 (6) Transfers of assets that would, at the time of the
31 transferor’s application for medical assistance, have been
32 exempt from consideration as a resource if retained by the
33 transferor, pursuant to 42 U.S.C. § 1382b(a), as implemented
34 by regulations adopted by the secretary of the United States
35 department of health and human services, excluding the home and

1 land appertaining to the home.

2 EXPLANATION

3 This bill amends the definition of "transfer of assets"
4 for the purpose of eligibility for the medical assistance
5 (Medicaid) program. The bill amends the definition to provide
6 that any transfer or assignment of a legal or equitable
7 interest in property, from a transferor to a transferee for
8 less than fair consideration, made while the transferor is
9 receiving medical assistance or within five years prior to
10 application for medical assistance by the transferor, is
11 presumed to be made with the intent, on the part of not only the
12 transferee, but also the transferor; or another person acting
13 on behalf of a transferor who is an actual or implied agent,
14 guardian, attorney-in-fact, or person acting as a fiduciary, of
15 enabling the transferor to obtain or maintain eligibility for
16 medical assistance or of impacting the recovery or payment of a
17 medical assistance debt. The presumption is then rebuttable
18 only by clear and convincing evidence that the transferor's
19 eligibility or potential eligibility for Medicaid or the impact
20 on the recovery or payment of a medical assistance debt was no
21 part of the reason of not only the transferee, but any of the
22 other parties specified for making or accepting the transfer
23 or assignment.

24 The bill provides that a transfer of assets includes a
25 transfer of an interest in the transferor's home, domicile, or
26 land appertaining to such home or domicile while the transferor
27 is receiving medical assistance, unless otherwise exempt.

28 The bill amends the listing of transfers that are exempt from
29 the definition to provide that a transfer of assets that would
30 have been exempt from consideration as a resource if retained
31 by the transferor pursuant to federal law does not include a
32 transfer of the home or land appertaining to the home.